

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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MARLAN LUDKIEWICZ.

Plaintiff

V.

UNUM LIFE INSURANCE COMPANY  
OF AMERICA.

Defendant

U.S. DISTRICT COURT  
DISTRICT OF MASS

Civil Action Number 04-30039-MAP

## AMEND COMPLAINT

**PARTIES**

1. The Plaintiff, Marian Ludkiewicz, resides at 1041 Pine Street, Palmer, Hampden County, Massachusetts 01069.
2. The Defendant, Unum Life Insurance Company of America, is a corporation registered to do business in the Commonwealth of Massachusetts, with a usual place of business at 2211 Congress Street, Portland, Maine 04101.

### JURISDICTION AND VENUE

3. The Court has jurisdiction over this matter pursuant to 29 U.S.C. § 1132 (e).
4. This Court has proper venue over this matter pursuant to 28 U.S.C. § 1391 (b), in that Massachusetts is the judicial district in which a substantial part of the events giving rise to the Plaintiff's claim occurred.

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**FACTS**

5. On or about March 1, 1995, the Plaintiff was employed by EC Baldonado Corporation, d/b/a The EC Corporation.
6. On said date, the Defendant Unum Life Insurance Company of America (hereinafter "Unum") issued Policy Number 101904 to EC Baldonado Corporation.
7. Said Unum Policy Number 101904 issued to EC Baldonado Corporation, was a standard group disability income insurance policy.
8. Unum Policy Number 101904 issued to EC Baldonado Corporation, provided coverage to the Plaintiff for long term disability arising from sickness or injury.
9. On or about March 6, 1999, the Plaintiff was awarded long term disability benefits by Unum under Policy Number 101904. Said benefits commenced on March 26, 1999.
10. On or about November 9, 2000, Unum made a "final determination" regarding the Plaintiff's benefit eligibility, and determined that Plaintiff's benefits would cease as of March 25, 2001.
11. On said date, Unum issued a lump-sum check to the Plaintiff representing long term disability benefits for the period November 9, 2000 through March 26, 2001.
12. Unum Policy Number 101904 provided that during the first two years of disability, long term disability benefits would be paid, if the insured was limited from performing the material and substantial duties of his regular occupation, due to sickness or injury.

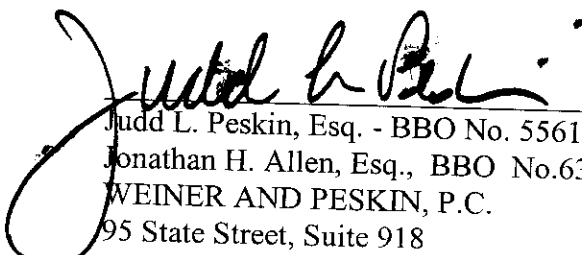
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13. Said policy also provided that after the first twenty-four months of payments, long term disability benefits would be paid only if the insured was unable to perform the duties of any gainful occupation, for which he was reasonably fitted by education, training, or experience.
14. The Plaintiff has at all times remained totally disabled, unable to perform the duties of any gainful occupation for which he is reasonably fitted by education, training or experience.
15. Since March 26, 2001, Unum has refused to pay benefits to the Plaintiff, under Policy Number 101904, which are properly payable to the Plaintiff.

WHEREFORE, the Plaintiff prays that this Court:

- A. Affirmatively order Unum to reinstate, retroactive to March 25, 2001, all benefits provided in Policy Number 101904 to the Plaintiff, and continue paying all said benefits to the Plaintiff until the same cease under the terms of said Policy;
- B. Award reasonable attorneys' fees to the Plaintiff;
- C. Award money damages to the Plaintiff; and
- D. Award such other relief as this Court finds proper and just.

The Plaintiff, Marian Ludkiewicz,  
By his Counsel



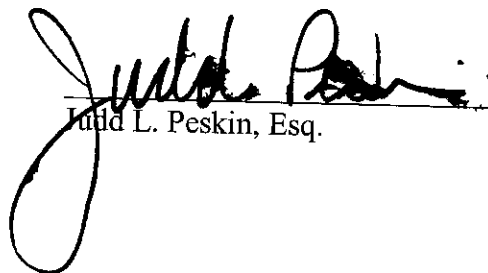
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Tel. No. (413) 732-6840  
Fax No. (413) 785-5666  
Date: April 29, 2004

**CERTIFICATE OF SERVICE**

I, Judd L. Peskin, Esq., do hereby certify that a true and correct copy of the above and foregoing Amended Complaint, has been served by placing same in the United States Mail, first class, postage prepaid, on this 29th day of April 2004 to:

Gerald G. Sanchez, Esq.  
Pierce Atwood  
One Monument Square  
Portland, ME 04101

Michael J. Chernick, Esq.  
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Judd L. Peskin, Esq.